

Remarks

The Office Action mailed October 28, 2008 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Specification

The specification has been amended in order to remove the hypelink therefrom.

Rejection(s) Under 35 U.S.C. § 103

Claim 36 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kung et al. (U.S. pub. No. 2004/0228336) in view of Akatsu et al. (Patent No. 6,505,255). Applicants respectfully traverse.

Claim 36 recites, *inter alia*,

wherein said host computer is programmed to implement an IP packetization process to receive said compressed digital video data from said one or more video external network interface circuits and packetize said compressed digital video data into IP packets addressed to the device and/or process which requested said digital video data and which is coupled to said gateway by one or more of said local area networks or busses, and said host computer being further programmed with a routing process to receive said IP packets from said IP packetization process and to receive IP packets from said DOCSIS compatible cable modem and automatically do all routing, encapsulation and protocol conversion necessary to deliver said IP packets to a device and/or process in execution on a device coupled to said gateway apparatus via one of said local area network interfaces or bus interfaces and identified by address information in said IP packets, and to receive data from a device and/or process in execution on a device coupled to said gateway apparatus via one of said local area network interfaces or bus interfaces and do any and all deencapsulation, encapsulation, protocol conversion and routing necessary for each packet to be automatically delivered to an appropriate one or more of said external network interfaces coupled to a device and/or process to which each packet is addressed for upstream delivery via an appropriate medium of transmission to whatever device and/or process to which said data is addressed, and said host computer programmed with a management and control process for receiving

requests for data from a device and/or process coupled to one or more of said local area network interfaces or said bus interfaces, and sending digital control data to one or more of said external network interface circuits to control them to obtain said requested data from a source coupled to said gateway via one or more of said external network interfaces.

These features are not disclosed in Kung or Akatsu. The passages in Kung to which the Office Action points do not discuss IP packetization of MPEG data for delivery within the premises (local networks 102) to which the BRG 300 is connected. In para. [0106], IP packetization is explained as being of data that is to be delivered out of the customer premises through HFC 112, HEH 115 and onto IP network 120, or vice versa. However, there is no discussion of IP packetization of MPEG data within the customer network 102. Even though the Examiner correctly points out that there is IP communication within these networks, this does not involve IP packetization of MPEG data, for example for delivery from the gateway 300 to other devices in the network 102. In paragraph [0086] of Kung, for instance, the fifth processor P5316 in the customer premises is explained as using IP to communicate with “IP telephones or IP enable (sic) PCs.” (para. [0086], ll. 27-28), but there is no disclosure in either Kung or Akatsu of IP packetization of MPEG data for delivery within the customer premises.

Claims 37 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kung et al. (U.S. pub. No. 2004/0228336) in view of Akatsu et al. (Patent No. 6,505,255) in further view of Addington (Patent No. 6,928,656). Claims 37 and 39 recite similar features to claim 36, and Addington does not cure the defects of Kung and Akatsu as discussed above.

Rejection(s) Under 35 U.S.C. § 102

Claims 38 and 40 stand rejected under 35 U.S.C. § 102(c) as allegedly being anticipated by Kung et al. (U.S. pub. no. 2004/0228336). Applicants respectfully traverse.

As explained above, Kung fails to disclose IP packetization of MPEG data for delivery within the customer premises. Claim 38 expressly recites, for instance,

... appropriately controlling said one or more expansion modules to retrieve the requested data or video or audio program, and programmed to perform an IP packetization process to receive downstream digital data from one or more of said expansion modules which is not already in IP packet form and data from said management and control process and encapsulate said data into internet protocol packets addressed to the customer premises equipment and one or more processes running on customer premises equipment which requested said data, and said host computer further programmed to perform a routing process to do all packetization, protocol conversion and routing functions necessary to route packets between any of said expansion modules and any of said one or more local area networks and/or busses.

It will be appreciated that, according to the M.P.E.P., a claim is anticipated under 35 U.S.C. §102 only if each and every claim element is found, either expressly or inherently described, in a single prior art reference.¹ The aforementioned reasons clearly indicate the contrary, and withdrawal of the 35 U.S.C. §102 rejection based on Kung is respectfully urged.

Conclusion

In view of the preceding discussion, Applicants respectfully urge that the claims of the present application define patentable subject matter and should be passed to allowance.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

¹ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,
NIXON PEABODY LLP

Dated: March 30, 2009

/Khaled Shami/
Khaled Shami
Reg. No. 38,745

NIXON PEABODY LLP
200 Page Mill Road 2nd Floor
Palo Alto, CA 94306
Tel: (650) 320-7700
Fax: (650) 320-7701

12419076.1